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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/585,439

08/06/2009

Stephan Clasen

BAW-0021

5948

23413 7590 07/21/2011

CANTOR COLBURN LLP

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EXAMINER

PATEL, YOGESH P

ART UNIT

PAPER NUMBER

3776

NOTIFICATION DATE

DELIVERY MODE

07/21/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptopatentmail@cantorcolburn.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/585,439	CLASEN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	YOGESH PATEL	3776	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 July 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/01/2009, 02/14/2007</u> .                                  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it includes legal terms (e.g. said). Correction is required. See MPEP § 608.01(b).

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.

- (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
  - (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
  - (i) DETAILED DESCRIPTION OF THE INVENTION.
  - (j) CLAIM OR CLAIMS (commencing on a separate sheet).
  - (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
  - (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 12/01/2009 is being considered by the examiner. The IDS submitted on 02/14/2007 is missing dates for the NPL documents.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the mirrored inner surface (claims 1-2), mirrored inner and outer surface (claim 3), mirror on pluggable element (claim 4), a groove for insertion of the pluggable element (claim 5), spherical joint (claim 8) and a light source in the region of suction port (claim 9) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure

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is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 6, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Brossoit (5,230,622).

Brossoit discloses a dental suction apparatus 10 (figures 1-2) including a hollow base body 14, 15 with a longitudinal axis 21 having an outer surface and inner surface and a suction port 16 and a mirrored surface 11 is disposed in the region of the suction port. Regarding claim 4, the mirrored surface is disposed on a pluggable element 27

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that is releasably connected (e.g. spring clip 20) to the suction apparatus 10. Regarding claims 6, the tube 15 is made of plastic (col. 2, line 43), thus it is deformable.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brossoit in view of Dragan et al. (5,876,384).

Brossoit discloses the invention substantially as claimed except for the tube is made from a flexible plastic; however, Dragan teaches an aspirator tube 15 made from flexible plastic (col. 2, lines 13-14). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Brossoit by providing the tube being made from flexible plastic as claimed as taught by Dragan so that the tube can be flex to reach various areas of the mouth for removing debris, saliva, fluids during dental treatment.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brossoit in view of Kanas (5,232,362).

Brossoit discloses the invention substantially as claimed except for the tube having a groove for the pluggable element; however, Kanas teaches a suction tube 24 having a groove 58 for a pluggable element (e.g. tongue retractor 12). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Brossoit by providing a groove as claimed as taught by Kanas in order to prevent the pluggable element from moving along the suction tube.

Claims 2-3, 11-12, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brossoit in view of Loertscher (4,963,142).

Brossoit discloses the invention substantially as claimed and further discloses the suction port is configured at an angle (figure 2) with respect to the longitudinal axis such that it exceeds the cross section of the base body and pluggable element 27 as claimed and the suction apparatus is made of plastic which is deformable except for the inner/outer surface has mirrored surface; however, Loertscher teaches a probe 78 (figures 6, 6A) for laser and aspiration (col. 2, lines 17-19; col. 1, line 66-col. 2, line 2) having reflective coating 84 on its inner surface and outer surface (figure 6A). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Brossoit by providing the reflective coating on inner surface and outer surface of the suction probe as taught by Loertscher so that laser can be guided through the suction apparatus for treating periodontal disease and suctioning of waste fluids using the same device.

Claims 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brossoit. Brossoit discloses the invention substantially as claimed except for the base body having spherical joint; however, Brossoit teaches that spherical joint (e.g. ball/socket joint 36, 40, figure 2) on grippable element which allows greater degree of freedom as seen in the figure. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Brossoit by adding such joint on the base body to allow the suction tube with a greater degree of freedom for thoroughly inspecting patient's mouth.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brossoit in view of Savin et al. (2002/0058230).

Brossoit discloses the invention substantially as claimed except for the light source disposed on the suction port as claimed; however, Savin teaches a dental mirror device (figure 1A, 1B) having a light source 18 to illuminate patient's mouth. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Brossoit by providing the light as claimed as taught by Savin in order to illuminate patient's mouth for dental inspection.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brossoit in view of Loertscher as applied to claim 12 above, and further in view of Kanas (5,232,362).

Brossoit/Loertscher discloses the invention substantially as claimed except for the tube having a groove for the pluggable element; however, Kanas teaches a suction tube 24 having a groove 58 for a pluggable element (e.g. tongue retractor 12). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Brossoit/Loertscher by providing a groove as claimed as taught by Kanas in order to prevent the pluggable element from moving along the suction tube.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brossoit in view of Loertscher as applied to claim 11 above, and further in view of Savin et al. (2002/0058230).

Brossoit/Loertscher discloses the invention substantially as claimed except for the light source disposed on the suction port as claimed; however, Savin teaches a dental mirror device (figure 1A, 1B) having a light source 18 to illuminate patient's



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mouth. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Brossoit/Loertscher by providing the light as claimed as taught by Savin in order to illuminate patient's mouth for dental inspection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Patel Yogesh whose telephone number is (571)270-3646. The examiner can normally be reached between 9 AM – 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, ***please contact the examiner's supervisor, SPE, at (571) 272-4713***. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

***If there are any inquiries that are not being addressed by first contacting the Examiner or the Supervisor, you may send an email inquiry to***

***TC3700\_Workgroup\_D\_Inquiries@uspto.gov.***

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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***/YOGESH PATEL/  
Examiner, Art Unit 3776***

***/TODD E. MANAHAN/  
Supervisory Patent Examiner, Art Unit 3776***